

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition to Compel
Psychiatric Examination of:

Case No. 2008-237

DIANA LYNN KUTZ
669 Vista Pacifica Circle
Pismo Beach, CA 93449

Registered Nurse License No. 288543
Public Health Nurse License No. 33053

Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the
Board of Registered Nursing, as its Decision in this matter.

This Decision shall become effective on June 16, 2008.

It is so ORDERED MAY 14, 2008.

LaTranene W Tate

FOR THE BOARD OF REGISTERED NURSING

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 LINDA L. SUN, State Bar No. 207108
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7 Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

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13 In the Matter of the Petition to Compel
Psychiatric Examination of:

14 DIANA LYNN KUTZ
669 Vista Pacifica Circle
15 Pismo Beach, CA 93449

16 Registered Nurse License No. 288543
Public Health Nurse License No. 33053

17
18 Respondent.

Case No. 2008-237

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

[Bus. & Prof. Code, § 2751]

19
20 In the interest of a prompt and speedy resolution of this matter, consistent with the
21 public interest and the responsibility of the Board of Registered Nursing ("Board"), Department
22 of Consumer Affairs, State of California, the parties hereby agree to the following Stipulated
23 Surrender of License and Order ("Stipulation") which will be submitted to the Board for
24 approval and adoption as the final disposition of the Stipulation, pursuant to Business and
25 Professions Code section 2751, of the order compelling Respondent Diana Lynn Kutz
26 ("Respondent") to undergo a mental examination pursuant to Business and Professions Code
27 section 820.

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1 **PARTIES**

2 1. Ruth Ann Terry, M.P.H, R.N ("Complainant") is the Executive Officer of
3 the Board. She brought this action solely in her official capacity and is represented in this matter
4 by Edmund G. Brown Jr., Attorney General of the State of California, by Linda L. Sun, Deputy
5 Attorney General.

6 2. Respondent Diana Lynn Kutz is representing herself in this proceeding and
7 has chosen not to exercise her right to be represented by counsel.

8 3. On or about January 1, 1978, the Board issued Registered Nurse License
9 No. 288543 to Respondent. The Registered Nurse License will expire on December 31, 2009,
10 unless renewed. On or about August 15, 1982, the Board issued Public Health Nurse License
11 No. 33053 to Respondent. The Public Health Nurse License will expire on December 31, 2009,
12 unless renewed.

13 **JURISDICTION**

14 4. Pursuant to Business and Professions Code section 2751, the Board may
15 file and adopt this Stipulation without the filing of a pleading when the ability of a registered
16 nurse to practice nursing safely is impaired due to mental or physical illness.

17 **ADVISEMENT AND WAIVERS**

18 5. Respondent has carefully read, and understands the charges and allegations
19 in this Stipulation. Respondent also has carefully read, and understands the effects of this
20 Stipulated Surrender of License and Order.

21 6. Respondent is fully aware of her legal rights in this matter, including the
22 right to a hearing on the charges admitted in the Stipulation; the right to be represented by
23 counsel, at her own expense; the right to confront and cross-examine the witnesses against her;
24 the right to present evidence and to testify on her own behalf; the right to the issuance of
25 subpoenas to compel the attendance of witnesses and the production of documents; the right to
26 reconsideration and court review of an adverse decision; and all other rights accorded by the
27 California Administrative Procedure Act and other applicable laws.

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1 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
2 each and every right set forth above.

3 **CULPABILITY**

4 8. Respondent admits that on or about September 13, 2005, while assigned
5 through InteliStaf Healthcare, a nursing registry, to work as a staff nurse at the Med-Surg Unit at
6 the Sierra Vista Regional Medical Center in San Luis Obispo, California, Respondent was
7 overwhelmed, cried, and could not complete her shift to care for 5 adult patients.

8 9. Respondent further admits that she is unable to practice nursing safely due
9 to a disabling physical illness and that cause for discipline exists. Respondent hereby surrenders
10 her Registered Nurse License No. 288543 and Public Health Nurse License No. 33053 for the
11 Board's formal acceptance.

12 10. Respondent understands that by signing this Stipulation she enables the
13 Board to issue an order accepting the surrender of her Registered Nurse License and Public
14 Health Nurse License without further process.

15 **CONTINGENCY**

16 11. This stipulation shall be subject to approval by the Board. Respondent
17 understands and agrees that counsel for Complainant and the staff of the Board may
18 communicate directly with the Board regarding this stipulation and settlement, without notice to
19 or participation by Respondent. By signing the Stipulation, Respondent understands and agrees
20 that she may not withdraw her agreement or seek to rescind the Stipulation prior to the time the
21 Board considers and acts upon it. If the Board fails to adopt this Stipulation as its Decision and
22 Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for
23 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board
24 shall not be disqualified from further action by having considered this matter.

25 12. The parties understand and agree that facsimile copies of this Stipulated
26 Surrender of License and Order, including facsimile signatures thereto, shall have the same force
27 and effect as the originals.

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1 13. In consideration of the foregoing admissions and stipulations, the parties
2 agree that the Board may, without further notice or formal proceeding, issue and enter the
3 following Order:

4 **ORDER**

5 IT IS HEREBY ORDERED that Registered Nurse License No. 288543 and Public
6 Health Nurse License No. 33053, issued to Respondent Diana Lynn Kutz, are surrendered and
7 accepted by the Board.

8 14. The surrender of Respondent's Registered Nurse License No. 288543 and
9 Public Health Nurse License No. 33053, and the acceptance of the surrendered licenses by the
10 Board shall be public information and shall constitute the imposition of discipline against
11 Respondent. This Stipulation constitutes a record of the discipline and shall become a part of
12 Respondent's license history with the Board.

13 15. Respondent shall lose all rights and privileges as a registered nurse in
14 California as of the effective date of the Board's Decision and Order.

15 16. Respondent shall cause to be delivered to the Board both her Registered
16 Nurse License No. 288543 and Public Health Nurse License No. 33053 wall certificates and
17 pocket licenses on or before the effective date of the Decision and Order.

18 17. Respondent fully understands and agrees that if she ever files an
19 application for licensure or a petition for reinstatement in the State of California, the Board shall
20 treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations
21 and procedures for reinstatement of a revoked license in effect at the time the petition is filed,
22 and all of the charges and allegations contained in this Stipulation shall be deemed to be true,
23 correct, and admitted by Respondent when the Board determines whether to grant or deny the
24 petition.

25 18. Should Respondent ever apply or reapply for a new license or certification,
26 or petition for reinstatement of a license, by any other health care licensing agency in the State of
27 California, all of the charges and allegations contained in this stipulation shall be deemed to be

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1 true, correct, and admitted by Respondent for the purpose of any statement of issues or any other
2 proceeding seeking to deny or restrict licensure.

3 19. Respondent shall not apply for licensure or petition for reinstatement for
4 one (1) year from the effective date of the Board's Decision and Order.


5 20. Any reinstatement proceeding shall be conducted pursuant to Business and
6 Professions Code section 2760.1.

7 21. Upon seeking reinstatement, it is the former licensee's responsibility to
8 submit competent evidence of her ability to safely and competently practice as a registered nurse.

9 **ACCEPTANCE**

10 I have carefully read the Stipulated Surrender of License and Order. I understand
11 the stipulation and the effect it will have on my Registered Nurse License No. 288543 and Public
12 Health Nurse License No. 33053. I enter into this Stipulated Surrender of License and Order
13 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
14 Board of Registered Nursing.

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16 DATED: 3/11/08.

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20 DIANA LYNN KUTZ
Respondent

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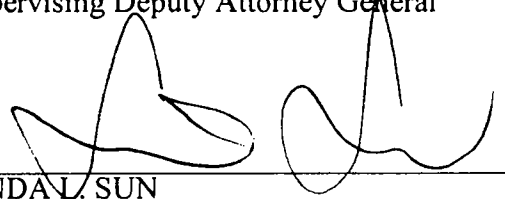
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Registered Nursing.

DATED: 3-21-08

EDMUND G. BROWN JR., Attorney General
of the State of California

GLORIA A. BARRIOS
Supervising Deputy Attorney General



LINDA L. SUN
Deputy Attorney General

Attorneys for Complainant

ATTACHMENT 2
Petition to Compel Psychiatric Examination

1 EDMUND G BROWN JR., Attorney General
of the State of California
2 GLORIA A. BARRIOS,
Supervising Deputy Attorney General
3 LINDA L. SUN, State Bar No. 207108
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-6375
6 Facsimile: (213) 897-2804

7 Attorneys for Petitioner

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 **In The Matter Of The Petition To Compel**
12 **Psychiatric Examination Of:**

13 DIANA LYNN KUTZ
669 Vista Pacifica Circle
14 Pismo Beach, CA 93449

15 Registered Nurse License No. 288543
Public Health Nurse License No. 33053

16
17 Respondent.

Case No. 2008-237

**PETITION FOR AN ORDER TO
COMPEL PSYCHIATRIC
EVALUATION**

(Bus. & Prof. Code Section 820)

18 Pursuant to Business and Professions Code section 820, Ruth Ann Terry, M.P.H.,
19 R.N., Executive Officer of the Board of Registered Nursing ("Petitioner"), files this Petition for
20 an Order To Compel Psychiatric Evaluation of Diana Lynn Kutz ("Respondent") by one or more
21 physicians and surgeons or psychologists.

22 Petitioner asserts that:

23 1. On or about January 1, 1978, the Board of Registered Nursing ("Board")
24 issued Registered Nurse License No. 288543 to Respondent. The Registered Nurse License was
25 in effect at all times relevant to the charges brought herein and will expire on December 31,
26 2009, unless renewed. On or about August 15, 1982, the Board issued Public Health Nurse
27 License No. 33053 to Respondent. The Public Health Nurse License was in effect at all times
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1 relevant to the charges brought herein and will expire on December 31, 2009, unless renewed.

2 2. Business and Professions Code section 820 states:

3 "Whenever it appears that any person holding a license, certificate or permit
4 under this division or under any initiative act referred to in this division may be unable to
5 practice his or her profession safely because the licentiate's ability to practice is impaired due to
6 mental illness, or physical illness affecting competency, the licensing agency may order the
7 licentiate to be examined by one or more physicians and surgeons or psychologists designated
8 by the agency. The report of the examiners shall be made available to the licentiate and may be
9 received as direct evidence in proceedings conducted pursuant to Section 822."

10 3. It appears that Respondent may be mentally or physically ill to the extent
11 that her ability to practice safely as a registered nurse is impaired. A Board investigation
12 revealed the following:

13 A. On or about September 13, 2005, Respondent was sent by IntelliStaf
14 Healthcare, a nursing registry, to work as a staff nurse at the Med-Surg Unit at Sierra Vista
15 Regional Medical Center in San Luis Obispo, California. Respondent started her shift at about
16 1900 hours and was assigned to care for 5 adult patients. At about 2130 hours, Respondent
17 informed the house supervisor she had to leave and could not care for the patients. The
18 supervisor noticed Respondent appeared overwhelmed, had been crying, and her hands and feet
19 were moving in a tremulous motion. Respondent took the hospital's portable phone, a pager and
20 the hospital identification card with her upon her departure.

21 B. On or about September 14, 2005, a staff member from IntelliStaf went to
22 Respondent's residence to retrieve the property Respondent took from the hospital. Respondent
23 refused to answer the door and her father was contacted who provided entry for the staff. The
24 staff member observed Respondent lying in her bed in a fetal position and did not respond to any
25 stimulus around her.

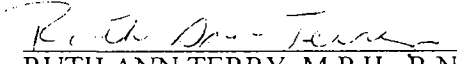
26 C. On or about May 14, 2007, a Board investigator interviewed Respondent
27 at the Pismo Beach Police Department. Respondent informed the investigator that in or about
28 November 2003, Respondent fell from a flight of stairs in her residence. She suffered brain

1 injury which required surgery to remove a blood clot from her left ear. Thereafter, she spent a
2 year in rehabilitation to regain her speech ability. In January 2005, she returned to the work
3 force and began to work for a nursing registry. She admitted that on September 13, 2005, while
4 working at Sierra Vista Regional Medical Center, she was overwhelmed and had to leave during
5 her shift. When she notified the house supervisor, she was crying. She further admitted that she
6 left the hospital in a state of panic and she could not handle stress well at all since her brain
7 surgery.

8 **PRAYER**

9 WHEREFORE, Petitioner requests that the Board of Registered Nursing issue an
10 order, pursuant to Business and Professions Code section 820, requiring Respondent Diana Lynn
11 Kutz to be examined by a physician and surgeon specializing in psychiatry or by a psychologist
12 designated by the Board or its designee, at a time convenient to Respondent and the examiner,
13 but not more than thirty (30) days from the date of service of the order, to determine
14 whether Respondent is mentally and/or physically ill to the extent that her condition affects her
15 ability to practice safely as a registered nurse.

16 DATED: 1/29/08

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19 
20 RUTH ANN TERRY, M.P.H., R.N.
21 Executive Officer
22 Board of Registered Nursing
23 Department of Consumer Affairs
24 State of California
25 Petitioner
26

27 LA2007602271
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ATTACHMENT 3
Order Compelling Examination

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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 **In The Matter Of The Petition To Compel**
13 **Psychiatric Examination Of:**

14 DIANA LYNN KUTZ
15 669 Vista Pacifica Circle
16 Pismo Beach, CA 93449

17 Registered Nurse License No. 288543
18 Public Health Nurse License No. 33053

19 Respondent.

Case No. 2008-237

**ORDER COMPELLING
EXAMINATION**

(Bus. & Prof. Code Section 820)

20 Ruth Ann Terry, M.P.H., R.N., Executive Officer of the Board of Registered
21 Nursing, Department of Consumer Affairs, petitioned this Board for an order requiring
22 Respondent Diana Lynn Kutz, Registered Nurse License No. 288543, Public Health Nurse
23 License No. 33053, to be examined by a physician and surgeon specializing in psychiatry or by a
24 psychologist, pursuant to Business and Professions Code section 820. It appears to the Board
25 that Respondent Diana Lynn Kutz, may be mentally or physically ill to the extent that her
26 condition affects her ability to practice nursing safely.

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1 IT IS HEREBY ORDERED, pursuant to Business and Professions Code section
2 820:

3 1. That Respondent Diana Lynn Kutz shall submit to an examination to be
4 conducted by a physician and surgeon specializing in psychiatry or by a psychologist selected by
5 the Board or its designee, to determine whether Respondent Diana Lynn Kutz is mentally or
6 physically ill to such an extent as to affect her ability to practice registered nursing safely.

7 2. That the examination of Respondent Diana Lynn Kutz shall be conducted
8 at a time mutually convenient to Respondent and the examiner selected by the Board, but in no
9 case later than 30 days after the service of this Order;

10 3. That the examination shall continue from day to day until completed, and
11 shall include any and all examinations and tests ordered or conducted by the examining
12 psychiatrists or psychologists as considered necessary in their professional judgment, including
13 but not limited to a referral to a physician and surgeon for neurological evaluation if deemed
14 necessary, and the results of the examinations shall be reported by the examiner in a detailed
15 written report setting forth the examiner's findings and conclusions, which report shall be
16 delivered to the Executive Office of the Board of Registered Nursing, with a copy of the report
17 to Respondent.

18 4. That the failure of Respondent Diana Lynn Kutz to comply with this order
19 by either refusing or failing to submit to the examination, or by refusing or failing to cooperate
20 with the examiner, shall constitute grounds for disciplinary action against Respondent's nursing
21 licenses pursuant to Business and Professions Code section 821.

22 IT IS ORDERED this 5th day of February, 2008.

23
24 *LaTrance Tate*
25 President, Board of Registered Nursing
26 Department of Consumer Affairs
State of California

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